

IN THE MATTER OF THE
SUSPENSION OF THE LICENSING
AUTHORITY OF:

HEARING NO. 16-HR-0133

DALE PEETS

ORDER

I, Anne Melissa Dowling, Acting Director of the Illinois Department of Insurance, hereby certify that I have read the Record in this matter and the hereto attached Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer, Martin McGrory, appointed and designated pursuant to Section 402 of the Illinois Insurance Code (215 ILCS 5/402) to conduct a Hearing in the above-captioned matter and that I have carefully considered the Record of the Hearing and the Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer attached hereto and made a part hereof.

I, Anne Melissa Dowling, Acting Director of the Illinois Department of Insurance, being duly advised in the premises, do hereby adopt the Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer as my own, and based upon said Findings, Conclusions and Recommendations enter the following Order under the authority granted to me by Article XXIV and Article XXXI of the Illinois Insurance Code (215 ILCS 5/401 *et seq.* and 215 ILCS 5/500-5 *et seq.*) and Article X of the Illinois Administrative Procedure Act (5 ILCS 100/10-5 *et seq.*).

This Order is a Final Decision pursuant to the Illinois Administrative Procedure Act (5 ILCS 100/1 *et seq.*). Parties seeking to petition the Acting Director of Insurance for a Rehearing or to Report the Hearing pursuant to 50 Ill. Adm. Code 2402.280 must do so within 10 days of the mailing of this Order. Failure to exhaust administrative remedies may affect an appeal. Appeal of this Order is governed by the Illinois Administrative Review Law (735 ILCS 5/3-101 *et seq.*).

NOW IT IS THEREFORE ORDERED THAT:

- 1) The Acting Director's Order of Suspension, issued on January 20, 2016, suspending the Illinois Producer's License of the Respondent, Dale Peets, is sustained;
- 2) The suspension will be in effect pending the Respondent, Dale Peets', compliance with the Circuit Court of Cook County, Domestic Relations Division Uniform Order For Support issued October 21, 2014 in Docket No. 11D090719 and the Circuit Court of Cook County, Domestic Relations Division Order of Adjudication issued March 29, 2016 in Docket No. 11D090719; and
- 3) The Respondent, Dale Peets, is assessed the cost of this hearing in the amount of \$563.00.

DEPARTMENT OF INSURANCE
State of Illinois

Date: August 1, 2016


Anne Melissa Dowling JAS
Acting Director



IN THE MATTER OF THE
SUSPENSION OF THE LICENSING
AUTHORITY OF:

HEARING NO. 16-HR-0133

DALE PEETS

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDATIONS OF THE
HEARING OFFICER**

Now comes Martin McGrory, Hearing Officer, in the above-captioned matter and hereby offers his Findings of Fact, Conclusions of Law and Recommendations to the Acting Director of Insurance.

FINDINGS OF FACT

PROCEDURAL DOCUMENTS AND THE EVIDENCE

- 1) On January 20, 2016, the Acting Director of Insurance, Anne Melissa Dowling ("Acting Director"), issued an Order of Suspension suspending the Illinois Insurance Producer License of Dale Peets ("Respondent"). (Hearing Officer Exhibit #1)
- 2) On or about February 17, 2016, the Illinois Department of Insurance ("Department") received a Request for Hearing from the Respondent. (Hearing Officer Exhibit #2)
- 3) On March 3, 2015, the Acting Director issued a Notice of Hearing in this matter setting a hearing date and location of April 26, 2016 at 10:00 AM at the Department's Offices in Chicago, Illinois. (Hearing Officer Exhibit #3)
- 4) On March 3, 2015, Ms. Barbara Delano and Mr. Robert Planthold filed a Notice of Appearance as Counsel for the Department in this matter. (Hearing Officer Exhibit #5)

- 5) On March 3, 2015, Martin McGrory was appointed Hearing Officer in this matter by the Acting Director. (Hearing Officer Exhibit #4)
- 6) The Hearing in this matter was convened a few minutes after 10:00 A.M. on April 26, 2016 at the Department's Offices in Chicago, Illinois at which time were present Martin McGrory, Hearing Officer; Barbara Delano and Robert Planthold, Counsel for the Department; Dale Peets, Respondent, appearing pro se; and Richard Falen, Supervisor, Department of Healthcare and Family Services.
- 7) The purpose of this proceeding was to determine the Respondent's eligibility to hold an Illinois Insurance Producer License and to determine whether the Director's Order of Suspension of such license should stand.
- 8) The Department moved to admit the following exhibits into evidence as stipulated by the parties (R.16-19):
 - a) A copy of the Uniform Order For Support from the Circuit Court of Cook County, Illinois Domestic Relations Division in the matter of Semeana Leslie vs. Dale Peets, Docket No. 11D090719, entered on November 13, 2012. (Department Exhibit #1)
 - b) A copy of the Uniform Order For Support from the Circuit Court of Cook County, Illinois Domestic Relations Division in the matter of Semeana Leslie vs. Dale Peets, Docket No. 11D090719, entered on July 22, 2014. (Department Exhibit #2)
 - c) A copy of the Uniform Order For Support from the Circuit Court of Cook County, Illinois Domestic Relations Division in the matter of Semeana Leslie vs. Dale Peets, Docket No. 11D090719, entered on October 21, 2014. (Department Exhibit #3)
 - d) Copies of documents the Department received from the Department of Healthcare and Family Services ("HFS") regarding Mr. Peets. The documents included the following: (Department Group Exhibit # 4)
 - i. A letter dated September 15, 2015, which requests suspension of the Respondent's Illinois Producer's License #9369104.
 - ii. A second letter dated September 15, 2015, which certified that the Respondent was more than 30 days delinquent in making child support payments as ordered. The letter also includes a calculation worksheet detailing Respondent's payment obligations as of June 30, 2015.

- iii. A Notice of Intent to Request Revocation, Suspension or Denial of Professional, Occupational, or Recreational License, directed to Dale Peets, dated April 16, 2014.
 - iv. An Agreement for Payment of Past-Due Support, dated April 15, 2014, provided by HFS.
 - v. A Notice of Intent to Request Revocation, Suspension or Denial of Professional, Occupational, or Recreational License, directed to Dale Peets, dated July 19, 2015.
- e) A copy of the letter sent from the Department to Mr. Peets on September 25, 2015, requesting that Mr. Peets provide the Department with an explanation of the measures he took to repay his child support debt. The letter also states that if Mr. Peets fails to come into compliance with Child Support Services within the next 30 days, then the Department will pursue the suspension of his Illinois Producer's License. (Department Exhibit #5)
 - f) A copy of the support calculation worksheet from HFS. The worksheet reflects Respondent's child support obligations as of March 31, 2016. The total amount owed was \$7,881.54. (Department Exhibit #6)
 - g) A copy of a Non-Custodial Parent Payment Report from HFS, dated April 22, 2016, which reflects Respondent's payments made towards his child support obligation. (Department Exhibit #7)
- 9) The Respondent moved to admit the following exhibits into evidence. (R.49-51) Upon cross examination and over the objection of the Department regarding Exhibits #2 and #3, all were admitted: (R. 105)
- a) A copy of an Order of Adjudication of Indirect Civil Contempt for Failure to Pay Child Support from the Circuit Court of Cook County dated March 29, 2016, Docket No. 11D090719. (Respondent's Exhibit #1)
 - b) A copy of a cashier's check payable to HFS, dated October 14, 2015, in the amount of \$4,735.00. A copy of a certified check payable to HFS, dated December 1, 2015, in the amount of \$5,300.00. (Respondent's Exhibit #2)
 - c) A copy of Respondent's 1099 Form, dated 2015, where HFS is listed as the Payer. The amount of income reported and Federal income tax withheld is \$18,455.80. (Respondent's Exhibit #3)

10) On Direct Examination, Richard Falen, Administrative Appeals Supervisor at the Department of Healthcare and Family Services, Division of Child Support Services, ("Falen") testified in this matter on behalf of the Department as follows: (R. 20-41)

- a) He has been with the Department of Healthcare and Family Services, Division of Child Support Services for fifteen years. His responsibilities include supervising staff who provide testimony at administrative appeal hearings regarding the establishment and enforcement of support obligations. Falen has testified in approximately 15,000 child support matters.
- b) He reviewed Respondent's HFS file including Respondent's child support obligations at issue in this matter.
- c) On November 13, 2012, the Circuit Court of Cook County issued a Uniform Order For Support, which stated the child support requirements of the Respondent. The Order stated as follows: beginning December 13, 2012, Respondent was required to pay \$200.00 every other week for current support and \$40.00 every other week on a retroactive child support judgment in the totaling \$3,600. (Department Exhibit #1)
- d) On July 22, 2014, the Circuit Court of Cook County issued a second Uniform Order For Support, temporarily granting an HFS downward modification. The specific terms of the Order are as follows: current support payments were modified to \$50.00 per month beginning on June 11, 2014 and delinquent child support payments were modified to \$10.00 per month. The matter was continued to set permanent support on October 21, 2014. (Department Exhibit #2)
- e) On October 21, 2014, the Circuit Court of Cook County issued a third Uniform Order For Support, granting the HFS downward modification as follows: current support payments of \$49.00 every week, arrearage payments of \$11.00 per week, and delinquent support payments were modified down to \$9.00 per week. (Department Exhibit #3)
- f) HFS sent Respondent a letter on April 16, 2014. This letter included a Notice of Intent ("NOI") that HFS was intending to request either revocation or suspension of Respondent's Illinois Insurance Producer License. (Department Group Exhibit #4)
- g) Respondent entered into a payment plan with HFS, dated April 15, 2014. As of that date he owed a total of \$1,375.62. After reviewing Department Exhibit #7, which reflects the payments HFS has received from the Respondent, he stated Respondent did make payments after entering into the agreement on April 15, 2014.

- h) HFS sent Respondent a letter on July 19, 2015 which included a second NOI that HFS was requesting revocation or suspension of Respondent's Illinois Insurance Producer License. As of that date, Respondent owed \$5,607.34 in past due child support, including interest. (Department Group Exhibit #4)
 - i) Respondent failed to request a hearing, pay the amount due in full within 15 days, or request a payment plan with HFS after the July 19, 2015 NOI was sent. Because Respondent failed to respond to the NOI, HFS treated it as a default certification. As a result, HFS sends notice to the Department.
 - j) On September 15, 2015, HFS sent notice to the Department requesting suspension of Respondent's Illinois Insurance Producer License. (Department Group Exhibit #4)
 - k) After the September 15, 2015 Notice of Delinquency to the Department, Respondent only paid \$180.00, in three separate \$60.00 payments on March 24, 2016 in child support. (Department Exhibit #6 and #7)
 - l) In order for Respondent to escape delinquency status, he must pay the entire balance that is past due: \$7,881.54. (Department Exhibit #6)
- 11) Respondent did not have any questions on cross-examination for Mr. Falen. (R. 41)
- 12) In his case-in-chief, the Respondent, Dale Peets, testified in this matter as follows: (R. 45-63)
- a) Around March 2014, he received his insurance producer license. Afterwards, he began working for Bankers Life through their training program. Three months later, he was released by Bankers Life, having failed to earn any commission or salary.
 - b) The first page of Respondent's Exhibit #2 is a Cashier's Check. The second page of Respondent's Exhibit #2 is a Certified Check.
 - c) He stated that he mailed both the Cashier's Check and Certified Check to HFS, but never received any confirmation of their receipt.
 - d) Because he did not know whether HFS had received either the Cashier's Check or Certified Check, he presented the checks to the Judge during his most recent child support court date on March 29, 2016 to determine whether he was in indirect civil contempt for failure to follow a prior Court order to pay child support. The Judge told him the checks looked fraudulent, and if they were she would put him in jail.

- e) Since the Judge would accept neither check shown in Respondent's Exhibit #2, Respondent made three payments totaling \$180 to show that he was still trying to make child support payments.
- f) At the March 29, 2016 court hearing to determine whether or not Respondent was in indirect civil contempt, HFS told him that he had sent the checks to the wrong address and made out the checks to the wrong party. HFS informed him that the checks should be made out to the Illinois State Disbursement Unit ("SDU") and mailed to the following address: P.O. Box 5921, Carol Stream, IL 60197. He stated that he mailed the checks to this address.
- g) Next, he explained the contents of Respondent's Exhibit #3, his 2015 Miscellaneous Income 1099 Form ("1099 Form"). He stated that it is "a copy of a check that [he] should be getting from the IRS," and it shows "an accumulation of debts or bills" all included as income on the 1099 Form.
- h) He explained the contents of the Order of Adjudication of Indirect Civil Contempt for Failure to Pay Child Support, marked as Respondent's Exhibit #1. It shows that to avoid being held in contempt he is required to pay \$1,566.00, plus a lump sum payment of \$200.00 by his June 7, 2016 court date; otherwise, further legal action will be taken against him.

13) On Cross Examination Dale Peets testified in this matter as follows (R.63-89):

- a) His son, Sugan Leslie, whose mother is Semeana Leslie, is 17 years old and will turn 18 in August.
- b) He received his Illinois Insurance Producer License in 2014, and does not hold any other insurance license or professional license in this State or any other State.
- c) He acknowledged receipt of the letter from the Department requesting evidence of the measures he has taken to repay his child support debt. (Department Exhibit #5) However, he did not respond to it since he had already sent in the Cashier's Check and Certified Check to HFS in fulfillment of his obligation. (Respondent's Exhibit #2)

14) The Hearing Officer returned to the issue of admitting Respondent's three Exhibits into evidence. The Department raised an objection to the authenticity of Respondent's Exhibits #2 and #3.

15) Respondent's Exhibit #1 was admitted entered into evidence as stipulated to by the parties (R. 105):

- a) A copy of an Order of Adjudication of Indirect Civil Contempt for Failure to Pay Child Support from the Circuit Court of Cook County dated March 29, 2016, Docket No. 11D090719. (Respondent's Exhibit #1)
- 16) The Hearing Officer admitted Respondent's Exhibits #2 and #3 into the record without making a determination as to their authenticity (R. 105):
- a) A copy of a cashier's check payable to HFS, dated October 14, 2015, in the amount of \$4,735.00. A certified check payable to HFS, dated December 1, 2015, in the amount of \$5,300.00. (Respondent's Exhibit #2)
 - b) A copy of Respondent's 1099 Form, dated 2015, where HFS is listed as the Payer. The amount of income reported and Federal income tax withheld is \$18,455.80. (Respondent's Exhibit #3)
- 17) Upon being recalled to testify by the Department, Mr. Falen further testified in this matter as follows (R. 106-111):
- a) Respondent's Exhibit #1 is a finding of indirect civil contempt. It is a result of a legal action of referral by the Division of Child Support Services. The Division sends the finding to the Cook County State's Attorney's Office, who then files a motion in the Circuit Court of Cook County. The purpose of the motion is to show cause as to why Respondent did not pay his child support and why Respondent is in violation of a court order.
 - b) Because Respondent was unable to show cause, the court entered a finding of civil contempt by indirect civil contempt. If he is unable to pay \$1,566.00 by June 7, 2016, then he will be incarcerated in the Cook County jail. Respondent's failure to appear at the June 7 court date will result in a body attachment, which is a civil arrest warrant issued from the bench.
 - c) As of the date of this Hearing, HFS has not received any payments since the March 29, 2016 Order of Adjudication was issued.
- 18) Midwest Litigation Services recorded the testimony taken in this proceeding and charged the Department \$563.00 for the court reporter's attendance and one copy of the proceedings. (Hearing Officer Exhibit #6)

DISCUSSION AND ADDITIONAL FINDINGS

- 19) The purpose of this proceeding was to determine the Respondent's eligibility to hold an Illinois Insurance Producer License and to determine whether the Acting Director's Order of Suspension suspending said license should stand.

Based upon an investigation and review of the Licensee by the Producer Regulatory Section of the Department of Insurance, the Acting Director alleges that:

During September 2015, the Department received notice from HFS certifying that Respondent was over thirty (30) days delinquent in making child support payments as ordered, and requested the Department suspend his license. As of June 30, 2015, Respondent owed over five-thousand (\$5,000) dollars in unpaid child support, including interest. And as of April 22, 2016, Respondent owes over seven-thousand (\$7,000) dollars in unpaid child support, including interest. The foregoing acts and/or omissions of Respondent are grounds for the suspension of his insurance producer's license under Section 500-70(a)(13) of the Illinois Insurance Code. 215 ILCS 5/500-70(a)(13)

Section 500-70 of the Code provides in pertinent part:

License denial, nonrenewal, or revocation:

- a) The Director may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with this Section or take any combination of actions, for any one or more of the following causes:
 - ...
 - (13) failing to comply with an administrative or court order imposing a child support obligation.

The Department has proven by a preponderance of the evidence that respondent Dale Peets violated 215 ILCS 5/500-70(a)(13) as alleged in the Order of Suspension. There is overwhelming evidence that Peets has failed to come into compliance with Child Support Services and pay his child support obligation. First, it is well documented that Respondent owes more than seven-thousand (\$7,000) dollars in child support, including interest. (Department Exhibit #6) Second, Respondent has failed to pay his weekly payments pursuant with his most recent Uniform Order For Support from October 21, 2014. (Department Exhibit #3) Third, an Order of Adjudication of Indirect Civil Contempt for Failure to Pay Child Support issued by the Circuit Court of Cook County Domestic Relations Division on March 29, 2016, held Respondent in contempt for his failure to pay his child support debt and willfully disobeying a Court order. (Respondent's Exhibit #1) Respondent did not dispute the contents of any of the exhibits entered. He claims to have sent two checks to pay the debt in full. However, DHS never received them. His debt still stands and he has failed to comply with a court order imposing a child support obligation.

The facts are undisputed, and on the day of this hearing, the Respondent was still in indirect civil contempt of Court for his failure to pay his child support obligations (Respondent's Exhibit #1) and in violation of the Uniform Order For Support (Department Exhibit #3), which

under 215 ILCS 5/500-70(a)(13) are valid reasons to suspend his license. The suspension of the license of Dale Peets is appropriate.

CONCLUSIONS OF LAW

Based upon the above-listed Findings of Fact and the entire Record in this matter, the Hearing Officer offers the following Conclusions of Law to the Acting Director of Insurance:

- 1) Martin McGrory was duly appointed Hearing Officer in this matter pursuant to section 5/402 of the Illinois Insurance Code (215 ILCS 5/402).
- 2) The Acting Director of Insurance has jurisdiction over the subject matter and the parties in this proceeding pursuant to Sections 5/401, 5/402, 5/403, and 5/500-70 of the Illinois Insurance Code (215 ILCS 5/401, 5/402, 5/403, and 5/500-70).
- 3) The Order of Suspension previously issued in this matter was within the Acting Director's statutory authority pursuant to Sections 500-70(a)(13) of the Illinois Insurance Code (215 ILCS 5/500-70(a)(13)).

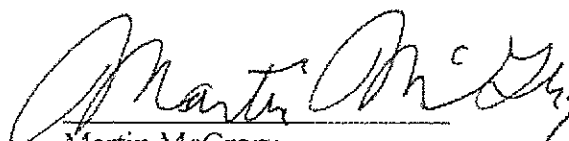
RECOMMENDATIONS

Based upon the above-listed Findings of Fact, Conclusions of Law, and the entire Record in this matter, the Hearing Officer offers the following Recommendations to the Acting Director of Insurance:

- 1) That the Acting Director's Order of Suspension, issued on January 20, 2016, suspending the Illinois Producer's License of Respondent, Dale Peets, is sustained.
- 2) That the suspension is in effect until Respondent, Dale Peets, shows proof of compliance with the Circuit Court of Cook County, Domestic Relations Division Uniform Order For Support issued October 21, 2014 and the Circuit Court of Cook County, Domestic Relations Division Order of Adjudication issued March 29, 2016.
- 3) That the Respondent, Dale Peets, be assessed the cost of this hearing in the amount of \$563.00.

Respectfully submitted,

Date: July 27, 2016



Martin McGrory
Hearing Officer